

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 4:06CR124-P-D

**CHARLES BARRETT MERRILL;
WILBUR TYRONE PEER;
ERWIN DAVID RABHAN;
JIMMY WINEMILLER; and
WILLIAM MICHAEL WINEMILLER,**

DEFENDANTS.

ORDER

These matters come before the court upon Defendant Jimmy Winemiller's motion to dismiss Count 7 as barred by the statute of limitations [113] and motion to deem submitted and for a ruling on his motion to dismiss Count 7 as barred by the statute of limitations [131] and Defendant William Michael Winemiller's motion to dismiss Counts 7 and 9 based on the statute of limitations [132]. After due consideration of the motions, the court finds as follows, to-wit:

Pursuant to the Fifth Circuit Court of Appeals August 11, 2008 decision reversing the court's June 28, 2007 Order granting Defendant Erwin David Rabhan's motion to dismiss Count 8 based on the statute of limitations and the court's July 18, 2007 Order denying reconsideration of the dismissal of Count 8 as to Defendant Erwin David Rabhan, the court concludes that the instant motions to dismiss should be denied given they are premised on the same arguments rejected by the Fifth Circuit.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant Jimmy Winemiller's motion to dismiss Count 7 as barred by the statute of limitations [113] and motion to deem submitted and for a ruling on his motion to dismiss Count 7 as barred by the statute of limitations [131] and

Defendant William Michael Winemiller's motion to dismiss Counts 7 and 9 based on the statute of limitations [132] are **DENIED**.

SO ORDERED this the 29th day of August, A.D., 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE